

REMARKS

Claims 1 to 23 are all the claims pending in the application, prior to the present amendment.

Claims 1, 4-6 and 8 have been rejected under the second paragraph of 35 U.S.C. § 112 as indefinite. The Examiner states that the parentheses in these claims are indefinite because it is unclear if the subject matter that is within the parentheses are required.

There are two terms that appear in parentheses.

(a) The first term is the word “calcining” which appears in claims 1, 4, 5 and 8 immediately after the term “heat-treating.”

In response, applicants have amended claims 1, 4 and 5 to delete the term “(calcining)” from these claims. Claim 8, whose subject matter has been incorporated into these claims, has been canceled.

(b) The second term that appears in parentheses is in claim 6. The term that is in parentheses is the following: “(m and n each represents an integer of 1 or more, hereinafter the same).”

In response, applicants have amended claim 6 to remove the parentheses from this phrase, and have inserted a comma instead of the opening parentheses.

In addition, applicants have deleted the term “, hereinafter the same” from claim 6, because there is no other claim that recites the reference letters “m” and “n.”

In view of the above, applicants request withdrawal of this rejection.

Claims 1-23 have been rejected under 35 U.S.C. § 102(e) as anticipated by or in the alternative under 35 U.S.C. § 103(a) as obvious over U.S. Patent Application Publication 2005/0182172 to Kamimura et al.

In response, applicants have amended the independent claims 1, 4 and 5 to recite that in the method of the present invention, the composition is previously granulated before heat-treating the composition. Kamimura et al do not disclose such a granulation and, therefore, do not anticipate the present claims. Thus, Kamimura et al can only be used against the present claims on the basis of obviousness under 35 U.S.C. § 103(a).

The Kamimura et al publication is based on an application owned by Showa Denko, who is also the assignee of the present application.

In response to the obviousness aspects of the rejection, applicants submit the following statement by undersigned counsel to establish common ownership of the present invention and the subject matter disclosed in the U.S. Patent Application Publication 2005/0182172 to Kamimura et al, at the time the present invention was made, in order to disqualify the U.S. Patent Application Publication 2005/0182172 to Kamimura et al as prior art under 35 U.S.C. § 103(a).

The above-identified Application No. 10/560,246 and U.S. Patent Application Publication 2005/0182172 to Kamimura et al were, at the time the invention of Application No. 10/560,246 was made, owned by, or subject to an obligation of assignment to, the same person.

In view of the above, applicants submit that U.S. Patent Application Publication 2005/0182172 to Kamimura et al cannot be used as a reference under 35 U.S.C. § 103(a) against the present claims.

Accordingly, applicants request withdrawal of this rejection.

Applicants note that the Kamimura et al publication corresponds to published International Application No. WO 03/055803, which has a publication date of July 10, 2003.

In addition, the Kamimura et al publication corresponds to JP 2003-192,339, which was published on July 9, 2003.

Applicants submit that WO 03/055803 and JP 2003-192,339 are not available as references against the present claims because the present claims are entitled to an earlier date than the July 10, 2003 publication date of WO 03/055803 and the July 9, 2003 publication date of JP 2003-192,339.

Thus, the present application claims benefit based on provisional application no. 60/479,836 filed on June 20, 2003, which date is earlier than the July 10, 2003 publication date of WO 03/055803 and the July 9, 2003 publication date of JP 2003-192,339. Applicants submit that the provisional application 60/479,836 supports the claims of the present application, and, therefore, WO 03/055803 and JP 2003-192,339 are not available as references against the present claims.

Claims 1-23 have been rejected under 35 U.S.C. § 103(a) as obvious over EP 0276321 in view of U.S. Patent Application Publication 2003/0125418 to Shibusawa et al.

The Shibusawa et al publication was published on July 3, 2003.

Applicants submit that the present application has an effective date that is earlier than the July 3, 2003 publication date of the Shibusawa et al publication.

Thus, as discussed above, the present application claims benefit based on provisional application no. 60/479,836 filed on June 20, 2003, which date is earlier than the July 3, 2003

Shibusawa et al publication date. As discussed above, the provisional application 60/479,836 supports the claims of the present application.

Further, the Shibusawa et al publication is based on an application owned by Showa Denko, who is also the assignee of the present application.

Applicants submit the following statement by undersigned counsel to establish common ownership of the present invention and the subject matter disclosed in the U.S. Patent Application Publication 2003/0125418 to Shibusawa et al, at the time the present invention was made, in order to disqualify the U.S. Patent Application Publication 2003/0125418 to Shibusawa et al as prior art under 35 U.S.C. § 103(a).

The above-identified Application No. 10/560,246 and U.S. Patent Application Publication 2003/0125418 to Shibusawa et al were, at the time the invention of Application No. 10/560,246 was made, owned by, or subject to an obligation of assignment to, the same person.

In view of the above, applicants submit that U.S. Patent Application Publication 2003/0125418 to Shibusawa et al cannot be used as a reference under 35 U.S.C. § 103(a) against the present claims.

Accordingly, applicants request withdrawal of this rejection.

Applicants note that the Shibusawa et al publication claims priority based on two earlier Japanese applications: P 2001-312474 and P 2001-336390. The earliest publication resulting from these two prior applications is JP 2003-201116, published on July 15, 2003. This date is after the June 20, 2003 filing date of the provisional application for the present application. Since the provisional application supports the present claims, the published Japanese applications cannot be used against the present application.

Claims 1-23 have been rejected under 35 U.S.C. § 103(a) as obvious over WO 02/098796 in view of U.S. Patent Application Publication 2003/0125418 to Shibusawa et al.

This rejection is similar to the above rejection, except that the Examiner relies on WO 02/098796 as the primary reference, instead of EP 0276321.

As discussed above, Shibusawa et al is not available as a reference under 35 U.S.C. § 103(a) against the present claims. Accordingly, applicants request withdrawal of this rejection.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

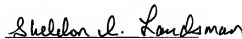
The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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